

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Case No. 09-B-44943
 CANOPY FINANCIAL, INC.,) Chapter 7
 Debtor.)) Hon. Deborah L. Thorne
)) Hearing Date: April 26, 2016
)) Hearing Time: 9:30 a.m.
))

**COVER SHEET FOR FIFTH AND FINAL APPLICATION OF
ALVAREZ & MARSAL, LLC FOR COMPENSATION OF
SERVICES PROVIDED TO CHAPTER 7 TRUSTEE GUS A. PALOIAN
FOR THE PERIOD OF JUNE 1, 2012, THROUGH JANUARY 31, 2016**

<u>Name of Applicant:</u>	Alvarez & Marsal, LLC
<u>Authorized to Provide Professional Services to:</u>	Chapter 7 Trustee Gus A. Paloian
<u>Date of Appointment:</u>	December 11, 2009
<u>Period for which Compensation and Reimbursement is Sought:</u>	June 1, 2012 through January 31, 2016
<u>Amount of Interim Compensation Sought:</u>	\$41,560.00
<u>Amount of Interim Expense Reimbursement Sought:</u>	\$ 13.05
<u>Amount of Final Compensation Sought:</u>	\$522,150.25
<u>Amount of Final Expense Reimbursement Sought:</u>	\$ 9,570.63

This is a: Final Application

Prior Applications:

<u>Prior Applications</u>	<u>Date Filed</u>	<u>Amount Requested</u>	<u>Amount Awarded</u>
1st Interim Application Period 12/31/09 - 4/30/10	8/31/10 [dkt 337]	\$171,613.34	\$169,586.68 [dkt 374]
2nd Interim Application Period 5/1/10 - 3/31/11	7/20/11 [dkt 613]	\$256,920.37	\$256,920.37 [dkt 628]
3rd Interim Application Period 4/1/11 - 8/31/11	11/01/11 [dkt 685]	\$52,126.78	\$52,126.78 [dkt 709]

4th Interim Application 8/6/12 [dkt 873] \$11,881.00 \$11,514.00 [dkt 883]
Period 9/1/11 - 5/31/12

Dated: April 5, 2016

Respectfully submitted,
GUS A. PALOIAN, not individually or
personally, but solely in his capacity as the
Chapter 7 Trustee of the Debtor's Estate,

By: /s/ James B. Sowka
Gus A. Paloian (06188186)
James B. Sowka (6291998)
Christopher J. Harney (6296683)
SEYFARTH SHAW LLP
131 South Dearborn Street, Suite 2400
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Telephone: (312) 460-5000

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 7
CANOPY FINANCIAL, INC.,) Case No. 09-44943
Debtor.)) Hon. Deborah L. Thorne
)) Hearing Date: April 26, 2016
) Hearing Time: 9:30 a.m. Prevailing CT

**NOTICE OF FIFTH AND FINAL APPLICATION FOR
COMPENSATION OF ALVAREZ & MARSAL AND HEARING**

TO: PARTIES ON ATTACHED GENERAL SERVICE LIST

PLEASE TAKE NOTICE that on April 5, 2016 Alvarez & Marsal, LLC (the “Applicant”) filed its Fifth and Final Application for Compensation and Reimbursement of Expenses as Counsel to Chapter 7 Trustee Gus A. Paloian for the Period of June 1, 2012 through January 31, 2016 (the “Application”) with the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the “Bankruptcy Court”). In the Application, Applicant seeks interim compensation in the amount of \$41,573.05. Notice of the Application is being served upon: (A) the Office of the United States Trustee, in care of Roman Sukley, Esq.; (B) all creditors and parties-in-interest; and (C) all CM/ECF notice recipients. All other entities may obtain copies of the Application upon request to: Ms. Jennifer M. McManus, Seyfarth Shaw LLP, 131 South Dearborn Street, Suite 2400, Chicago, Illinois 60603-5577; jmcmanus@seyfarth.com.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Application will be held before the Honorable Deborah L. Thorne, United States Bankruptcy Judge for the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, in the courtroom normally occupied by Her Honor, Courtroom 613, located at 219 South Dearborn Street, Chicago, Illinois 60604, on Wednesday, April 26, 2016 at 9:30 a.m. prevailing Central Time, or as soon thereafter as the undersigned counsel may be heard.

Dated: April 5, 2016

Respectfully submitted,

GUS A. PALOIAN, not individually, or personally, but solely in his capacity as Chapter 7 Trustee of the Debtor's Estate

By: /s/ James B. Sowka
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CERTIFICATE OF SERVICE

The undersigned non-attorney certifies that on this 5th day of April, 2016, pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System and Fed.R.Civ.P. 5(a), she caused a copy of the attached:

1. **Notice of Fifth and Final Application of Alvarez & Marsal, LLC, for Compensation as Forensic Accountants to Chapter 7 Trustee Gus A. Paloian For the Period From June 1, 2012 through January 31, 2016** to be served (1) electronically on those entities who receive notice through the ECF system and who are listed on the attached Service List, and (2) and upon each of the parties identified on the attached **Special Service List** by causing the same to be deposited into the United States Mail chute located at 131 South Dearborn Street, Chicago, Illinois 60603, in properly-addressed envelopes with sufficient first-class postage prepaid; and

2. **Notice of Fifth and Final Application of Alvarez & Marsal, LLC for Compensation** to be served (1) electronically on those entities who receive notice through the ECF system and who are listed on the attached Service List, and (2) upon each of the parties identified on the attached **General Service List** by causing the same to be deposited into the United States Mail chute located at 131 South Dearborn Street, Chicago, Illinois 60603, in properly-addressed envelopes with sufficient first-class postage prepaid.

Jennifer M. McManus
Jennifer M. McManus

Subscribed and sworn to before
me this 5th day of April, 2016

Jennifer B. Woods
Notary Public



CANOPY FINANCIAL, INC.
Case No. 09-44943

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Case No. 09-44943
CANOPY FINANCIAL, INC.,) Chapter 7
Debtor.)) Hon. Deborah L. Thorne
)) Hearing Date: April 26, 2016
)) Hearing Time: 9:30 a.m. Prevailing CT

**FIFTH AND FINAL APPLICATION OF ALVAREZ & MARSAL DISPUTE
ANALYSIS & FORENSIC SERVICES, LLC FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES AS FORENSIC
ACCOUNTANTS TO CHAPTER 7 TRUSTEE GUS A. PALOIAN**

Alvarez & Marsal Dispute Analysis & Forensic Services, LLC (“A&M”), as forensic accountants to the above-captioned debtor (“Canopy” or the “Debtor”), pursuant to sections 327, 328, 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 5082-1 of the Local Rules of the United States Bankruptcy Court for the Northern District of Illinois (the “Local Rules”), and the United States Trustee Fee Guidelines — Guidelines for Reviewing Applications for Compensation and Reimbursement of Disbursements Filed under 11 U.S.C. § 330 (Appendix A to 28 C.F.R. § 58) (the “UST Guidelines”), hereby submits this Fifth and Final application (the “Application”) for compensation of services rendered on behalf of the chapter 7 Trustee Gus A. Paloian (“Trustee”) for the interim period from June 1, 2012, through January 31, 2016, the (“Interim Fee Period”), seeking interim allowance of \$41,573.05 for the actual, reasonable, and necessary forensic accounting services rendered by A&M, and for the final period from December 31, 2009 through January 31, 2016, seeking final allowance of \$522,150.25 in fees and \$9,570.63 in expense reimbursement. In support of the Application, A&M respectfully states as follows:

BACKGROUND AND JURISDICTION

1. On November 25, 2009, (“Petition Date”), the Debtor filed its voluntary petition for relief under chapter 11 of the United States Bankruptcy Code.
2. On December 30, 2009, (“Conversion Date”), on the Debtor’s motion, this Court entered an Order converting the Debtor’s chapter 11 case to one under chapter 7, and the U.S. Trustee appointed Gus A. Paloian as the chapter 7 trustee in the case. (Docket Nos. 92, 93).
3. This Court has jurisdiction over the Application pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 327, 328 and 330 of the Bankruptcy Code, as supplemented by Bankruptcy Rule 2016, Local Rule 5082-1, and the UST Guidelines.

RETENTION OF ALVAREZ & MARSAL DISPUTE ANALYSIS & FORENSIC SERVICES LLP

4. On, December 11, 2009, the Debtor filed a motion to retain A&M as its forensic accountants and operational consultants *nunc pro tunc* to the Petition Date (Docket No. 47).
5. On December 30, 2009, prior to the conversion of this case to a chapter 7 case, the Court authorized the Debtor to employ A&M as its forensic accountants and operational consultants *nunc pro tunc* to the Petition Date. (Docket No. 90).
6. On March 10, 2010, the Trustee filed a motion to retain A&M *retroactive* to the Conversion Date (Docket No. 211).
7. On April 6, 2010, the Court authorized the Trustee to employ A&M as his forensic accountants *retroactive* to the Conversion Date (Docket No. 219).

8. The Court's April 6, 2010, Order provided that A&M's compensation for forensic accounting services rendered and reimbursement of expenses incurred "in connection with [A&M's] representation of the Trustee shall be pursuant to applications to be submitted to and approved by this Court" (Docket No. 219).

9. Pursuant to Rule 2016(b), A&M has not shared, nor agreed to share, any compensation it has received or may receive in this case with another person or party other than with A&M's managing directors, directors, managers, associates, and other employees, or any compensation another person or party has received or may receive in this case.

RELIEF REQUESTED

10. A&M submits this Application for allowance of compensation for actual, reasonable, and necessary professional services performed as forensic accountants to the Trustee.

11. A&M seeks interim allowance in this Application of \$41,560.00 in fees and \$13.05 in expenses incurred during the I

12. A&M seeks final allowance in this Application of \$522,150.25 in fees and \$9,570.65 in expenses incurred during the pendency of the chapter 7 proceeding.

13. On August 31, 2010, A&M filed its First Interim Application for Compensation. Pursuant to the Order entered by the Court on September 22, 2010, Alvarez and Marsal received \$162,692.50 for services rendered and \$6,894.18 for reimbursement of expenses.

14. On July 20, 2011, A&M filed its Second Interim Application for Compensation. Pursuant to the Order entered by the Court on August 10, 2011 Alvarez and Marsal received \$254,290.00 for services rendered and \$2,630.37 for reimbursement of expenses.

15. On November 1, 2011, A&M filed its Third Interim Application for Compensation. Pursuant to the Order entered by the Court on November 22, 2011 Alvarez and Marsal received \$52,093.75 for services rendered and \$33.03 for reimbursement of expenses.

16. On August 16, 2012, A&M filed its Fourth Interim Application for Compensation. Pursuant to the Order entered by the Court on September 5, 2012, Alvarez and Marsal received \$11,514.00 for services rendered and \$0.00 for reimbursement of expenses.

17. The interim fees sought by this Application reflect an aggregate of 103.90 hours of forensic accounting time spent and recorded in performing services for the Trustee for the Interim Fee Period of the chapter 7 proceeding. This fee request does not include time that might be construed as duplicative or otherwise not beneficial to the Debtor's estate, which has already been eliminated by A&M.

18. A&M's fees and costs were incurred as forensic accountant to the Trustee. A&M's fees were derived using the applicable hourly billing rates for the firm's personnel who rendered such services. Attached hereto as Exhibit A is a schedule setting forth all A&M professionals who have performed services in the Debtor's bankruptcy case for the Interim Fee Period of the chapter 7 proceeding, the capacity in which each such individual is employed by A&M, the hourly billing rate charged for services performed by such individual, the aggregate number of hours expended in this case and fees billed therefore.

19. Attached hereto as Exhibit B is a summary by project categories of the fees generated by the services performed during the Interim Fee Period and, for each separate project category, a list of each person providing services on the project, the hourly billing rate charged

for services performed by such individual, a statement of the number of hours spent and the amount of compensation requested for each person on the project.

20. A&M maintains computerized records of the time spent by all forensic accountants and the expenses incurred in connection with A&M's representation of the Trustee in this case. Copies of these computerized records are attached hereto as **Exhibit C**.

21. All of the services for which compensation is sought were rendered to the Trustee solely in connection with the Debtor's bankruptcy case and not on behalf of any individual creditor or other person.

BASIS FOR PAYMENT

22. Professional services and expenses for which compensation and reimbursement are sought were rendered and expended on behalf of the Trustee. All of the fees and expenses sought to be paid or reimbursed in this Application were actual, necessary, and reasonable, and benefited the Debtor's estate and creditors.

23. During the pendency of the chapter 7 proceeding, A&M performed a variety of tasks on the Trustee's behalf. While detailed descriptions of the day-to-day services provided and the time expended performing such services are attached as Exhibit C, a summary of the services A&M provided to the Trustee during the Interim Fee Period are described in paragraphs 23 through 25 below.

Fifth Third Bank Accounts and Credit Cards (Fees: \$41,560.00; Hours 103.90)

24. During the pendency of the chapter 7 proceeding, A&M assisted the Trustee and his counsel, with various requests in relation to bank accounts and credit cards held at Fifth Third

Bank. A number of these requests were to review and analyze credit card transactions incurred by Jeremy Blackburn and Anthony Banas. In addition, A&M reviewed and analyzed all transactions through Canopy Financial's Fifth Third Bank operating accounts. A&M compiled this information and summarized all credit card and bank account transactions for potential litigation. A more detailed description of the time spent related to this matter is attached hereto as Exhibit C.

25. The foregoing professional services were necessary and appropriate to the administration of the bankruptcy estate. Compensation for the foregoing services as requested is commensurate with the complexity, importance, and nature of the problems, issues, or tasks involved. A&M has taken significant efforts to ensure that the professional services were performed with expedience and in an efficient manner and without duplication of effort.

26. The rates charged by A&M in this case are its standard rates for a bankruptcy matter. The rates charged by A&M also are consistent with reasonable and customary hourly rates charged by other forensic accountants throughout the country in matters of similar complexity, scope and national significance.

27. Section 330 provides that a court may award a professional employed under section 327 of the Bankruptcy Code "reasonable compensation for actual necessary services rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Section 330 also sets forth the criteria for the award of such compensation and reimbursement:

- i. In determining the amount of reasonable compensation to be awarded, the court should consider the nature, the extent, and the value of such services, taking into account all relevant factors, including

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and
- (E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Id. § 330(a)(3).

28. Because of the benefits realized by the estate, the nature of this case, the professional accreditations of those who rendered services, the amount of work done, the time consumed, and the skill required, A&M requests that it be allowed interim compensation for professional services rendered during the pendency of the Debtor's chapter 7 proceeding in the sum of \$41,573.05.

NOTICE

29. Notice of this Application has been given to: (a) the Office of the United States Trustee; (b) the Securities and Exchange Commission; (c) the Internal Revenue Service; (d) the United States Attorney Office for the Northern District of Illinois; (e) the Prepetition Lenders; (f) the Debtor's 20 largest unsecured creditors as set forth in the amended list filed on December 27, 2009, and (g) all parties that have requested notice in the Debtor's case. In light of the relief requested, A&M submits that no further notice is required.

30. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, A&M respectfully requests that the Court enter an Order:

- A. Finding Notice of the Application sufficient as given and that no other or further notice is necessary;
- B. Allowing and awarding A&M interim fees in the amount of \$41,560.00 and final fees in the amount of \$522,150.25;
- C. Allowing and awarding A&M interim expenses in the amount of \$13.05 and final expenses in the amount of \$9,570.63;
- D. Authorizing the Trustee to make payment of such fees and expenses to A&M from the Estate, and
- E. Granting such other and further relief as this Court deems just and appropriate.

Dated: April 5, 2016

Respectfully submitted,

GUS A. PALOIAN, not individually, or personally, but solely in his capacity as Chapter 7 Trustee of the Debtor's Estate

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